

**REPORT - PLANNING COMMISSION MEETING
December 8, 2005**

Project Name and Number: Mission Clay Products PLN2000-00136

Applicant: Owen Garret, Mission Clay Products

Proposal: The proposed project is a Final Reclamation Plan and Preliminary Grading Plan for the currently idle Mission Clay Products (MCP) quarry and clay pipe manufacturing plant.

Recommended Action: Approve Mitigated Negative Declaration, Final Reclamation Plan and Preliminary Grading Plan, subject to conditions.

Location: 2225 Old Canyon Road (terminus) in the Niles Planning Area

Assessor Parcel Number(s): 507-0762-002-02

Area: 60.59 acres

Owner: Mission Clay Products

Agent of Applicant: Bryan Vansell, Mission Clay Products and Blair Dahl, Rosetta Associates

Consultant(s): Patrick Miller, 2M Associates
Eric Austensen, Streamline Engineering
Harold Appleton, Prunuske Chatham Civil Engineering
ENGEO, Geotechnical Consultants

Environmental Review: A Mitigated Negative Declaration has been prepared for this project.

Existing General Plan: Open Space (1 dwelling unit per acre), Hill Face Open Space, Toe of the Hill, Trailhead, Horse and Foot Trail and Historic Resource.

Existing Zoning: Open Space (O-S)

Existing Land Use: Agricultural (grazing), open space

Public Hearing Notice: A total of 17 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on November 23, 2005. A Public Hearing Notice was delivered to The Argus on November 21, 2005 to be published by November 24, 2005.

Executive Summary: A final reclamation plan is required by the State of California Surface Mining and Reclamation Act (SMARA) and the City of Fremont requires a preliminary grading plan for quarry rehabilitation to be approved by the Planning Commission. Subsequent to these approvals, Mission Clay Products must obtain grading and demolition permits from the Community Development Department. The applicant has submitted a reclamation plan in conformance with the State and City requirements. State staff have visited the site and reviewed the plan. Minor revisions to the reclamation plan have been made to respond to State staff comments. The State did not comment on estimated cost of reclamation within the allotted 45-day review period. The report to the Planning Commission concludes that the reclamation plan and preliminary grading plan (including mitigation measures incorporated into the conditions of approval) meets the State and City requirements and recommends approval of the Mitigated Negative Declaration and the reclamation plan and preliminary grading plan (Exhibit "A"), subject to conditions (Exhibit "B").

Background and Previous Actions: In 1985, An Environmental Impact Report (EIR) for a proposed General Plan Amendment for a portion of the property to accommodate a very low density residential development was prepared but never approved by the Planning Commission and City Council because the applicant withdrew the application. (EIR-85-

33, GPA 85-2). On April 2, 1992, the Planning Commission approved a preliminary reclamation plan and negative declaration for the quarried portion of the subject site (SS-91-6, EIA-91-75). The final reclamation plan was to be approved by staff; however, the plan was never finalized. On August 2, 1994, the City Council approved a General Plan Amendment for a portion of the property from Open Space (0.25 dwelling units per acre) to Open Space (one dwelling unit per acre) while the remaining portions of the site remained Hill Face Open Space and the additional designations for Toe of the Hill, Trailhead, Horse and Food Trail and Historic Resource were also retained (GPA 94-11, EIA -94-70). On September 26, 2002, Mission Clay Products submitted an application for a preliminary reclamation plan and grading plan. A permit to demolish the remaining clay pipe manufacturing facilities and the elevated portion of an unused aqueduct was granted (Demolition Permit A-D 9800069). While some structures were removed under this permit, it has since expired on April 10, 2001 and a new demolition permit is now required for subsequent work.

Project Description: The proposed project is a final reclamation plan and a preliminary grading plan for the currently idle Mission Clay Products (MCP) quarry and clay pipe manufacturing plant. The Mission Clay property consists of 4 parcels varying in size from 60.59 to 1.87 acres. The reclamation plan affects approximately 19 acres of the 60.59 acre parcel where the former clay quarry and the pipe manufacturing plant areas were located. The reclamation plan proposes to dismantle the remaining structures (three brick chimneys, a water tower and a segment of an abandoned aqueduct), remove impervious surfaces, clean up all debris, grade disturbed areas to a topography that blends with surrounding areas, re-vegetate all disturbed soil to prevent erosion and establish plant communities consistent with surrounding areas. The immediate end use is "open space" consistent with current City of Fremont General Plan Land Use designations and zoning.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan Land Use designation for the project site is Open Space (1 dwelling unit per acre,) Hill Face Open Space, Toe of the Hill, Horse and Foot Trail and Historic Resource. The purpose of the final reclamation plan and preliminary grading plan is to clean up the site, regrade and revegetate the land to blend in with the existing adjacent open space lands. The reclamation project would be consistent with the General Plan Open Space Element Policy, Natural Resources Element Objective and Health and Safety Element Policy as follows:

Open Space Policy - OS 1.1.2	Encourage preservation of open space on the Hill Face, ridgeline, and Niles Canyon to protect the City's visual character.
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Comment: The purpose of the reclamation plan is to restore the site of the old quarry and clay pipe manufacturing plant to a more natural state comparable to the existing adjacent open spaces in the Niles Canyon area.

Natural Resources Objective - NR 8.1	Retention of existing water quality in Alameda Creek.
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Comment: Ground water and erosion control mitigation measures and monitoring requirements of the reclamation plan ensure protection and minimal impact to Alameda Creek.

Health & Safety Element Policy - HS 6.1.2	Ensure cleanup of hazardous materials prior to a change in use from industrial to other uses.
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Comment: Alameda County Water District is the lead agency working with the applicant in the remediation program to remove contaminated soil on the project site. Six monitoring wells will be left in place until the remediation program is complete.

Compliance with Measure T (Hill Area Initiative of 2002): Measure T passed as a voter initiative in November of 2002. In September of 2005, City Council approved the location of a revised Toe of the Hill line based on the new Measure T 'Toe of the Hill' definition. The Toe of the Hill line crosses the eastern portion of the project site. Properties above the Toe of the Hill line are subject to regulations set forth in Measure T. These regulations include limitations on use and access of and over slopes of 30% or greater. Portions of the areas identified for re-grading in the final reclamation plan and preliminary grading plan are above the Toe of the Hill line and have slopes of 30% or greater. Measure T, Section 3 – Protection of Legal Rights states:

"Notwithstanding their literal terms, the provisions of this ordinance do not apply to the extent that courts determine that if they were to be applied they would deprive any person of constitutional or

statutory rights or privileges, or otherwise would be contrary to the United States or State constitutions or law. The purpose of this limitation is to make certain that the ordinance does not infringe any person's constitutional or legal rights or violate the law in any way, or subject the City of Fremont to any legal liability. To the extent that a provision or provisions of this ordinance are not applicable because of this section, the City may permit only that minimum development required by law which is most consistent with the provisions and purposes of this ordinance, and that complies with other General Plan provisions."

California State Surface Mining and Reclamation Act (SMARA) of 1975 requires mine and quarry operators to submit a reclamation plan, for the closure of mining operations, to be approved by the local jurisdiction. Fremont Municipal Code Article 18.3.1 – Surface Mining and Reclamation Ordinance enforces correlative restrictions and provisions with SMARA and the Ordinance sets in its purpose that "mined land are reclaimed to a usable condition which is readily adaptable for alternative land uses."

Although areas of the proposed reclamation and regrading have slopes of 30% or greater, State law preempts strict application of Measure T, thus the regrading for reclamation purposes would be allowed. However, the provisions and restrictions of Measure T will still be applicable to any future re-use or development of the areas above the Toe of the Hill line.

Compliance with the State Mining and Reclamation Act (SMARA): Mission Clay Products has submitted a reclamation plan that lists each of the requirements of SMARA and other State regulations followed by information required by those requirements. The reclamation plan was submitted to the California State Department of Conservation Reclamation Section for comments as to its adequacy in meeting those provisions. The State Department of Conservation staff visited the site on April 7, 2005 and sent a letter commenting on the plan on April 11, 2005. The following section lists the State Department of Conservation's comments and City staff response to those comments.

1. *State comment:* SMARA Section 2772(o)(3) requires that the reclamation plan state initiation and termination dates.

Staff response: The reclamation plan has been revised to state the reclamation schedule is expected to be:

- Phase 1 – Dry Season (May 1 through October 15) 2006-2008
- Phase 2 – Dry Season (May 1 through October 15) 2007-2008
- Phase 3 – Dry Season (May 1 through October 15) 2009

2. *State comment:* The plan should discuss how the debris from the aqueduct removal (both the debris from the previously demolished section and the debris from remaining section to be demolished) is to be coordinated with the reclamation of the quarry-plant site. A gully on the upper easterly slope is proposed to be filled with rocks to reduce erosion. The rock treatment does not appear warranted and it is recommended that open grass lined swales be constructed to convey water flows to the borrow site/wetlands area.

Staff comment: The applicant's engineer has considered this recommendation and has concluded that the rock step gully treatment reflected in the preliminary grading plan is warranted for unanticipated erosion that may be caused by a 20-year storm event.

3. *State comment:* Erosion control performance criteria should be adopted in the reclamation plan. A soils assessment and remedial measure example is given. The interfacing of the reclamation backfilling with the areas where contaminated soils are being removed should be addressed to avoid conflicts.

Staff comment: The performance criteria for erosion control has been changed by the applicant to reflect the above considerations included in the final reclamation plan.

4. *State comment:* An update on the water quality/cleanup issues should be included in the reclamation plan. The interfacing of the reclamation backfilling with the areas where contaminated soils are being removed should be addressed to avoid conflicts.

Staff comment: The applicant is conducting cleanup, monitoring, and reporting activities of the soil remediation area with Alameda County Water District and the Regional Water Quality Control Board. Backfilling of the area involved in

the Alameda County Water District work plan will be accomplished when authorized by the District. In addition, the City's Fire Department (Hazardous Materials Division) has reviewed and assisted in the monitoring of hazardous materials removal and remediation.

5. *State comment:* A weed control program should be specified in the reclamation plan.

Staff comment: A weed management provision has been added to the reclamation plan.

6. *State comment:* The plan should specify that the ripping depth will be 18 inches and that all compacted work areas will be ripped where revegetation is planned.

Staff comment: The reclamation plan has been altered to require that site roads and the factory area will be ripped to a depth of 18 inches where revegetation is planned.

7. *State comment:* A revised cost estimate needs to be forwarded to the Department for evaluation as to adequacy. A 45-day review period is established for such review.

Staff comment: The 45 day review period has expired and no response has been received by the City. State staff was contacted by phone to ascertain the review status. City staff was told that the State had no comment on the cost estimate, leaving the decision to the City as to the adequacy of the financial assurance for project completion and subsequent monitoring and repairs if needed. The **Financial Assurance** section below and Condition 3 of Exhibit "B" addresses this further.

8. *State comment:* The mitigation measures listed in the Mitigated Negative Declaration should be incorporated into the project.

Staff comment: Mitigation measures described in the Mitigated Negative Declaration have been incorporated into Exhibit B, conditions of approval. Those measure include dust control measures, archeological and historic resource protection, and water quality mitigation measures to clean up contaminated soil.

Proposed Grading: The Mission Clay property consists of 4 parcels varying in size from 60.59 to 1.87 acres. The reclamation plan affects approximately 19 acres of the 60.59 acre parcel where the former clay quarry and the pipe manufacturing plant areas were located. Area 1, the perimeter area surrounding the quarry and plant site will not be disturbed. Area 2, the former manufacturing and storage area, approximately 10.8 acres in area, is relatively flat with paved areas for storage, roads and foundations and floors of demolished buildings. Four brick chimneys for the kilns are to be dismantled and recycled. Paving and concrete materials are to be ground up (likely on site) and then hauled off site for recycling. All debris is to be removed and the area graded to a gradient not exceeding 20:1. A 150,000 gallon water tank on a hill adjacent to the manufacturing plant is to be dismantled and scrapped unless a user is found for the tank. Area 3 is a hilly area just easterly of the manufacturing area. Approximately 7.7 acres in area, it was previously quarried for its clay resources. The lower and upper slopes are to be graded not to exceed 3:1. All graded areas will be revegetated to blend in with the surrounding hill area. The following measures were identified in the reclamation plan to achieve and maintain the open space character of the site. Conditions of approval of the preliminary grading plan/reclamation plan are recommended to implement these measures.

- Protection and preserving existing native trees and shrubs to the extent possible by avoiding trees and shrubs in the willows and marsh areas identified by the biotic assessment conducted by Zentner and Zentner in 1992 (an area essentially unchanged since that study).;
- Demolition and removal of all pavement and infrastructure except access road, property line fencing and interior fencing to exclude cattle from regraded and revegetated areas;
- Using stockpiled soil to fill in holes and regrade quarried areas to establish slope stability
- Installing effective erosion control measures in the gullies A,B and C and other areas to prevent erosion impacting Alameda Creek;
- Aerating areas previously occupied by structures and paving to promote revegetation;
- Continuing to cleanup and monitor fuel contaminated areas to prevent contaminants from reaching Alameda Creek;

- Hydroseeding /hydromulching all disturbed area with appropriate seed mix (two different mixes) and monitoring the success of revegetation.

Reclamation Plan Findings: In order to approve reclamation plans, the Planning Commission must make certain findings. Those findings are included in Exhibit "B", Findings and Conditions of Approval.

Hazardous Materials: Contaminated soil from a leaking fuel tank has been removed from the site to an approved disposal site. Since work began on removal of the contaminated soil, another contaminated site has been found. Removal of petroleum residue continues at both sites. Six wells have been constructed for monitoring progress on the cleanup. The applicant continues to work with the Alameda County Water District on the contamination issue.

Seasonal Pond and Willow Woodland: The biotic analysis of the site performed by Zentner & Zentner in 1992, identified a seasonal pond and willow woodland comprising about 4 acres. The pond was formed by the quarry operation. The woodlands surrounding the pond is comprised of approximately 20 to 25 individual or clumps of arroyo willows with an understory of flat head sedge and annual weeds. The Zentner report suggested the water source for the willows comes from the combination of winter rains, groundwater and a cattle stock pond fed by a leak in the elevated aqueduct. The pond area was described extremely disturbed with no observable functional value. The Zentner report noted that the pond area would not fit the definition of wetlands under Section 404 of the Clean Water Act, but noted that other agencies define wetland differently although those definitions are based on some form of functional value. The willow stand was described as less disturbed, but easily recreated if the stand was to be removed. The proposed reclamation plan was designed to avoid grading the pond area and almost all the willow stand (the northerly edge of the willow stand will be graded to accommodate the toe of the lower slope).

Financial Assurance: State law and the City's Surface Mining and Reclamation Ordinance (FMC Article 18.3.1) requires financial assurance that the reclamation will be completed. The financial assurance may be in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution or other method acceptable to the City. Conditions of approval require that financial assurance to be submitted prior to the issuance of a grading permit. The financial assurance is to remain in effect until the reclamation and the monitoring period are completed. Yearly updates of the financial assurance are required for the life of the project.

Erosion Control: In response to staff's annual inspection of the site in March of 2001, interim erosion control measures were put in place in the spring and summer of 2002 to minimize erosion of the easterly quarried slopes. Those measures, constituting the first phase of reclamation, include:

- Removal of livestock from the project site;
- Installation of property line fencing to exclude livestock entering the property;
- Installation of temporary erosion control materials in critical gullies and adjacent areas, including erosion control blankets on headcuts, straw wattles in the gullies below the headcuts, hydroseeding an erosion control mix on areas of bare soils and applying a bonded fiber matrix to the treated areas.

Circulation/Access: Access to the Mission Clay Products quarry is from a private driveway at the northern terminus of Old Canyon Road. The driveway is a narrow road that lies east of Alameda Creek and west of the Union Pacific Rail Road tracks. Demolition of the existing structures on site will result in demolition debris being removed from the project site by trucks. Demolition and construction traffic on Old Canyon Road shall be limited to the construction hours indicated in the conditions of approval.

Urban Runoff Clean Water Program: The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval are included in the preliminary grading plan.

Geologic Hazards: Portions of the project site are within seismic hazard zones for earthquake-induced landslides and for liquefaction. The proposed project, a mine reclamation plan and associated grading, is not subject to the Seismic Hazard Mapping Act, because there is no proposed structure for human occupancy and no proposed subdivision. Future development of the project site may be subject to the Seismic Hazard Mapping Act, including preparation of a seismic hazard report.

ENVIRONMENTAL ANALYSIS: An Initial Study and Draft Mitigated Negative Declaration has been prepared and circulated through the State Clearinghouse for this project. The environmental analysis identified concerns regarding

potential impacts that would increase dust during construction, cause soil erosion and contamination impacting Alameda Creek, noise impacts on residents and impacts on an archeological site. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures related to soil erosion, soil contamination, dust control and archeological site protection have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration and Mitigation Monitoring Plan have been prepared for consideration by the Planning Commission.

Response from Agencies and Organizations: None

ENCLOSURES: Exhibit "A" Reclamation Plan and Preliminary Grading Plan
Exhibit "B" Findings and Conditions of Approval

Informational Exhibit 1 Mitigated Negative Declaration, Initial Study, and Mitigation Monitoring Plan
Informational Exhibit 2 Letter from the State Department of Conservation dated April 11, 2005
Informational Exhibit 3 Response from applicant to Letter from the State Department of Conservation

EXHIBITS: Exhibit "A" Reclamation Plan and Preliminary Grading Plan
Exhibit "B" Findings and Conditions of Approval

Recommended Actions:

1. Hold public hearing.
2. Find the Initial Study conducted for the project has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources. Therefore, find that there is no evidence the project would have any potential for adverse effect on wildlife resources and recommend the filing of a Certificate of Fee Exemption for the project.
3. Adopt the Draft Mitigated Negative Declaration for the project finding that there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment and further finding that this action reflects the independent judgment of the City of Fremont.
4. Approve a Mitigation Monitoring Plan for the project.
5. Find that the proposed project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Open Space, Natural Resources and Health and Safety Chapters as enumerated within the staff report. The project conforms to the goals and policies as enumerated in the staff report and Findings Exhibit adopted/recommended herewith.
6. Approve PLN2000-00136, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

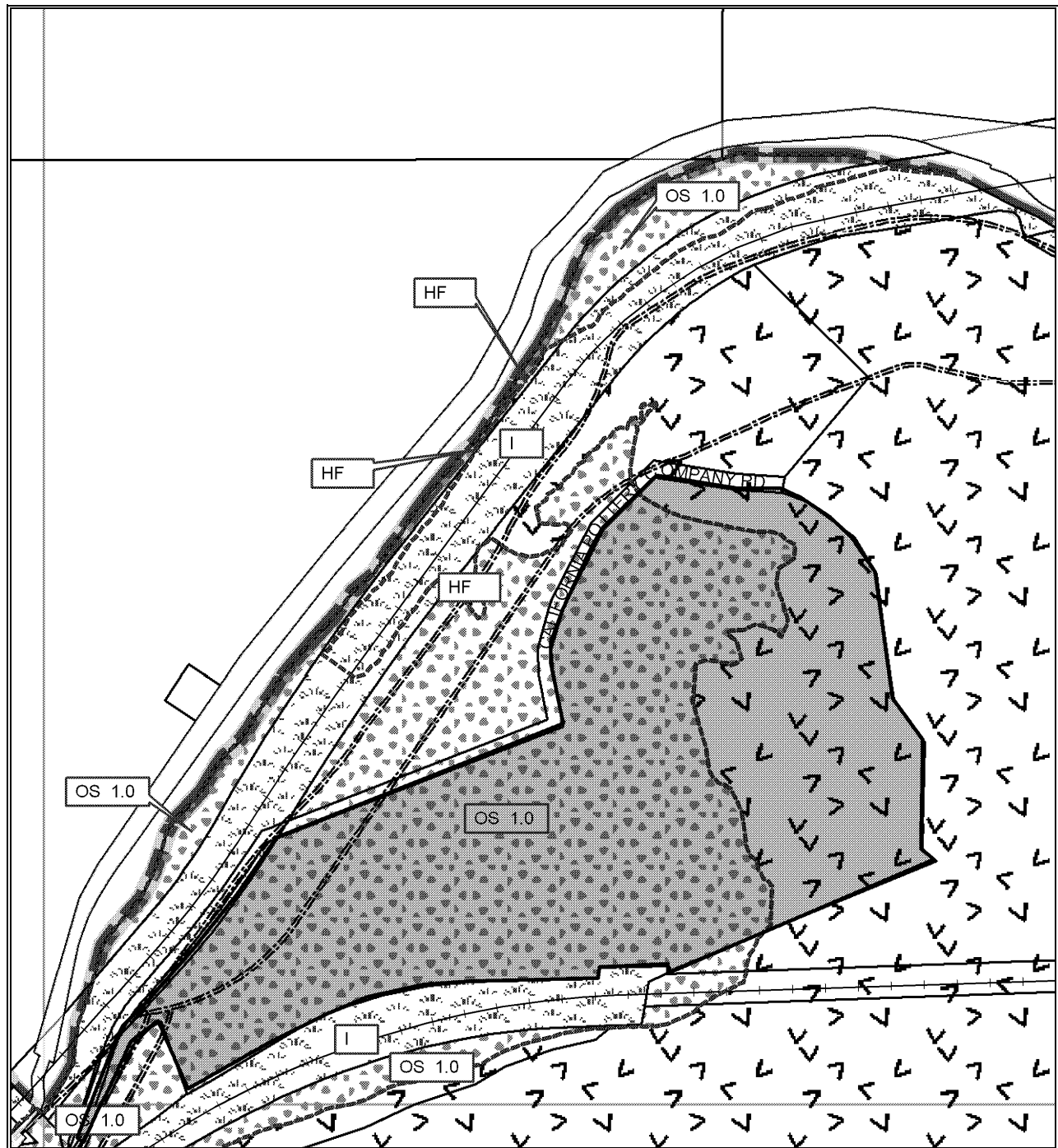


Exhibit B
Conditions of Approval
PLN2000-00136 Mission Clay Products
Preliminary Grading Plan/Reclamation Plan
December 8, 2005

Reclamation Plan Findings:

1. The reclamation plan complies with State Mining and Reclamation Act (SMARA) and regulations because the reclamation plan incorporated each of the SMARA and State code requirements for reclamation and specifically addressed those requirements. In addition, the reclamation plan has been reviewed by the State Department of Conservation as to compliance to those provisions. Portions of the reclamation plan have been revised in response to the Department's comments.
2. The reclamation plan and potential use of reclaimed land pursuant to the plan are consistent with Article 18.3.1. of the Zoning Ordinance and the City's General Plan and any applicable resource plan or element because the purpose of the reclamation plan and preliminary grading plan is to clean up the site, regrade and revegetate the land to blend in with the existing adjacent open space lands. The reclamation project would be consistent with General Plan Policy OS 1.1.2 - Encourage preservation of open space on the Hill Face, ridgeline, and Niles Canyon to protect the City's visual character; with Objective NR 8.1 - Retention of existing water quality in Alameda Creek; and with Policy HS 6.1.2 - Ensure clean up of hazardous materials prior to a change in use from industrial to other uses.
3. The reclamation plan has been reviewed pursuant to California Environmental Quality Act (CEQA) and the City's environmental review guidelines. Significant adverse impacts related to the reclamation of the surface mining operations are associated with fuel tank leakage, potential disturbance to an archeological site and potential erosion, dust creation and noise impacts occurring during regrading of the site. The soil contamination is being removed under the direction of the Alameda County Water District and the City of Fremont Fire Department and the contaminated area will be monitored. Conditions of approval include measures requiring completion of the Alameda County Water District work plan requirements, erosion and dust control measures and hours of construction to mitigate the identified and potential adverse impacts to the maximum extent feasible.
4. The land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources because the property owner is required to implement a plan that blends the quarried area and the plant site with existing open space lands and that financial assurances are required to assure that the reclamation plan will be implemented.
5. The reclamation plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the general plan and applicable resource plan because the reclamation plan, when completed, will create an open space similar to that existing on surrounding lands; however, any future development proposal for a different open space use will have to have its own environmental and planning analysis to determine the appropriateness of that use on the site, which would also include compliance with the Hill Area Initiative of 2002 regulations for areas above the Toe of the Hill line.
6. A written response to the State Department of Conservation has been prepared as part of the report to the Planning Commission. It is noted that the State Department of Conservation's letter raised no objection to the reclamation plan.

Preliminary Grading Plan Findings:

In addition, the following findings by the Planning Commission are required before the Preliminary Grading Plan can be approved.

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing quarried appearance because the plan generally calls for regrading the site to blend with the existing open space lands surrounding the site. The final detailed design will include details such as the rounding of contours at conform locations.

2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. The grading design includes details and specifications to grade the site and restore the topography to a more natural state. The grading plans have been prepared and reviewed for conformance with the recommendations in the project geotechnical report, including recommendations regarding geologic and topographic stability. The grading permit will be subject to review and inspection by the City Engineer.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way because most of those facilities do not exist on site or on adjacent property (e.g., public sewers) or because the very nature of the reclamation plan is to regrade the disturbed portion of the property to blend in with existing terrain and to provide appropriate erosion control to prevent sediment from entering into Alameda Creek. No water or sewer facilities are proposed for the site. The drainage facilities proposed for the project has been reviewed by the relevant utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. Conditions of approval require the applicant to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology. The project site is within a seismic hazard zone, however the project, to reclaim the quarry and grade the site, is not subject to the Seismic Hazards Mapping Act. The project geotechnical report did not identify any special geological concerns associated with the project. However, should such concerns be identified prior to issuance of a grading permit or during the course of grading, supplemental data and substantiation of conclusions may be required by the City Engineer.
5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont because the project location is far removed from residential development; because potential impacts on water quality, soil erosion and noise impacts will be mitigated; and because of the relatively short time period needed to complete the project.

Conditions of Approval:

1. The project shall conform to Exhibit "A", Reclamation Plan and Preliminary Grading Plan and all conditions of approval set forth herein.
2. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the grading permit to be approved by the City Engineer.
3. The developer shall provide financial assurance in compliance with the Surface Mining and Reclamation Ordinance (FMC Article 18.3.1). The bond amount shall ensure faithful performance by the developer to complete the reclamation plan, including any repairs or revegetation required during the monitoring period is required. The amount shall be subject to City review and shall be posted prior to issuance of a grading permit. The applicant shall submit revisions to the financial assurance annually to account for additional work needed, inflation and work accomplished in the year.
4. Grading operations shall be in accordance with recommendations contained in the geotechnical report dated October 9, 2001, by ENGEO Incorporated, and any addendum or subsequent required soils reports. Grading operations shall be supervised by an engineer registered in the State of California to do such work.
5. Approval of this preliminary grading plan shall terminate 48 months from the date of approval by the Planning Commission, unless an time extension is applied for and granted. Any time extension to the approval of the preliminary grading plan shall be submitted for review and approval by the Planning Commission, subject to determination by the City Engineer.

6. The applicant shall obtain a final grading permit in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Fremont Municipal Code). Grading shall be subject to approval of the City Engineer. The grading design shall include details and specifications to grade the site and restore the topography to a more natural state. The final detailed design shall include details such as the rounding of contours at the conform locations.
7. The applicant shall complete all requirements of the Alameda County Water District work plan, City of Fremont Fire Department and the Regional Water Quality Control Board. Such cleanup shall be coordinated with the reclamation project. Should conflicts occur between the clean up efforts and the site reclamation, which may require minor modifications to the grading permit, the applicant shall apply to the City Engineer for an amendment to the grading permit. Significant modifications that are not consistent with the reclamation plan and preliminary grading plan, in the reasonable determination of the City Engineer, shall be referred to the Planning Commission for approval.
8. Prior to issuance of a grading permit to fill the soil remediation area, the applicant shall obtain authorization from the Alameda County Water District and the applicant shall provide the City Engineer evidence that the remediation is complete.
9. The developer shall provide for a functional drainage system subject to approval of the City Engineer.
10. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
11. The project shall comply with dust suppression measures. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. In areas where construction is delayed for an extended period of time, the ground shall be re-vegetated to minimize the generation of dust. A person shall be designated to oversee the implementation of dust control.
12. The applicant shall provide for a functional system to control erosion and siltation during and after grading and demolition, subject to review and approval of the City Engineer. A erosion and sediment control plan shall be included as part of the grading plans.
13. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for any excess dirt or import fill shall be subject to the approval of the City Engineer.
14. The project plans shall identify Best Management Practices appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
15. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices shall result in the issuance of correction notices, citations, or stop work orders.
16. Revegetation of the site shall conform to specifications listed in Exhibit A. Monitoring of the success of the revegetation shall begin when the revegetation of the site is completed and continue for three years. Landscaping shall be designed to reduce runoff, promote surface filtration, and to minimize the use of fertilizers, herbicides, and pesticides, which can contribute to urban runoff pollution.
17. The applicant shall be responsible for litter control and sweeping of entrance road during construction.
18. Any monitoring water well, that is shown on reclamation plan map, is known to exist, is proposed to exist, or is located during the course of field operations, must be properly destroyed, backfilled, or maintained in accordance with applicable groundwater protection ordinances.

19. The project applicant shall prepare an emergency spill response plan prior to commencement of construction work at the site. The plan will include a map that delineates construction staging areas, where refueling, lubrication, and maintenance of equipment may occur.
20. The project applicant shall require that construction contractors' equipment be equipped with functioning spark arrestors.
21. Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
Monday-Friday, 7 a.m. to 7 p.m.
Saturday & Holiday, 9 a.m. to 6 p.m.
Sunday, no construction activity allowed
22. Prior to implementing any ground-disturbing activity associated with implementing the reclamation plan (with the exception of plant dismantling, removal of impervious surfaces, and general debris cleanup), the applicant shall retain a qualified archaeologist to update previous investigations in order to determine the present status and condition of archaeological site Ala-4, and to recommend appropriate procedures, if necessary, to assure protection and/or recovery of resources in compliance with applicable laws and policies. Grading and other activities associated with the reclamation plan that could adversely affect the archaeological site shall be avoided until clearance to proceed is received by the archaeologist and granted by the City.
23. Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5 (e) and (f) will be followed to reduce impacts to a less than significant level.
24. The applicant shall obtain a demolition permit for the removal of the remaining aqueduct structure crossing the property and initiate demolition before or in conjunction with the site grading.
25. The applicant shall prepare and submit a report on the project grading, revegetation and contaminated soil removal to the City of Fremont Community Development Department annually until the reclamation and monitoring required by the reclamation plan are completed. The applicant shall be responsible for City cost in reviewing such reports, including costs of consultants hired to review such reports.
26. All cut and fill slopes shall be constructed to a maximum of three horizontal to one vertical (3:1).
27. The Project Geotechnical Engineer shall be retained to review the final grading plans and specifications. The Project Geotechnical Engineer shall approve the grading plans prior to City approval and issuance of the grading permit.
28. Ingress and egress from the project site shall be limited to the existing gated access on Old Canyon Road. The developer is responsible for insuring that construction vehicles enter and exit through this gated access point. Installation or use of another access point is subject to review and approval of the City Engineer.
29. No construction vehicles shall stage and/or park within Old Canyon Road. All vehicles shall stage and/or park within the project site, as shown on Exhibit "A." Construction vehicles include, but are not limited to, cars, pickup trucks, haul trucks, dump trucks, bulldozers, scrapers, front-end loaders, and compactors.
30. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).

31. Major grading operations shall occur in dry-weather months (April 1 through October 15). No site grading shall occur between October 15 and April 15 unless approved erosion control measures are in place.
32. Minimize the tracking of mud and dirt onto public roads by construction vehicles.
33. Vehicle and equipment repair, maintenance or washing may not be done on the construction site unless appropriate measures are taken to prevent petroleum products and cleaners from contaminating the ground or discharging into the City's storm drain system.
34. The project will generate construction and demolition debris that can be recycled, including wood, scrap metal, drywall, and concrete. This material may be recycled through recycling companies licensed in Fremont. Small amounts of excess concrete, mortar or grout may be placed in the Municipal Solid Waste (MSW) container. However, large concrete debris, broken pavement, trees, etc. should be separated for recycling and not mixed with MSW. Do not mix green waste (plant debris) with other wastes. Chip and compost green or wood waste.